

EXHIBIT 1

Ramsey, Gabriel M.

From: Alexandra Moss <AMoss@durietangri.com>
Sent: Thursday, March 17, 2016 9:57 AM
To: Ramsey, Gabriel M.; Caridis, Alyssa; Higgins, Christopher J.; Eric Findlay; Walter Lackey
Cc: Vera Ranieri
Subject: RE: Blue Spike, LLC v. Audible Magic Corporation, No. 6:15-cv-00584-RWS-CMC

Mr. Ramsay,

We have confirmed that we will meet and confer today at 2pm PST / 4pm CST with counsel for Blue Spike. Below is dial in information for the call:

Call-in number: 1 (800) 309-2350
Participant code: 2539-6677

Counsel for EFF, Ms. Ranieri (cc'ed), will also be on the call.

Regards,

Alex Moss | Durie Tangri LLP | amoss@durietangri.com | 415-362-6666

From: Ramsey, Gabriel M. [mailto:gramsey@orrick.com]
Sent: Monday, March 14, 2016 8:45 AM
To: Alexandra Moss; Caridis, Alyssa; Higgins, Christopher J.; Eric Findlay; Walter Lackey
Subject: RE: Blue Spike, LLC v. Audible Magic Corporation, No. 6:15-cv-00584-RWS-CMC

Ms. Moss,

Thank you. Audible Magic is assessing the request. I understand that you're scheduling a meet/confer with Blue Spike's counsel on Thursday. I request to be on that call, so please send me the proposed time(s) and dial-in information.

Best,



GABRIEL M. RAMSEY

Partner

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[Cybersecurity and Data Privacy Group](#)

From: Alexandra Moss [<mailto:AMoss@durietangri.com>]

Sent: Friday, March 11, 2016 3:32 PM

To: Ramsey, Gabriel M.; Caridis, Alyssa; Higgins, Christopher J.; Eric Findlay; James V.. Fazio III; Walter Lackey

Subject: Blue Spike, LLC v. Audible Magic Corporation, No. 6:15-cv-00584-RWS-CMC

Counsel,

We write regarding Blue Spike, LLC v. Audible Magic Corporation, No. 6:15-cv-00584-RWS-CMC. It has come to EFF's attention that the docket in the above-captioned matter includes a number of sealed entries containing information to which the public is entitled—in particular, information about Blue Spike's patents.

As you may be aware, “[t]here is a strong presumption in favor of a common law right of public access to court proceedings.” *In re Violation of Rule 28(D)*, 635 F.3d 1352, 1356 (Fed. Cir. 2011) (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597–99 (1978)). In particular, “[t]he marking as confidential of legal argument concerning the propriety of a decision by the court is generally inappropriate given the strong presumption of public access to court proceedings and records.” *Id.* at 1360. For that reason, Federal Circuit precedent prohibits district courts from taking an “improper casual approach to confidentiality markings that ignores the requirements of public access, deprives the public of necessary information, and hampers this court's consideration and opinion writing.” *Id.* Moreover, there can be no justification for sealing information about the legal scope or validity of Blue Spike's patents because “[a] patent by its very nature is affected with a public interest.” *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 816 (1945); *see also* 37 C.F.R. 1.56(a) (“A patent by its very nature is affected with a public interest.”).

Because patents are inherently of interest to the public, and court records are presumptively open to the public, EFF intends to move to intervene in the above-captioned matter to ask the court to unseal documents and/or information to which the public is entitled, including, *inter alia*, Docket No. 56.

Please let us know whether Audible intends to oppose EFF's motion by Wednesday, March 16 at 5pm PST. If Audible intends to oppose EFF's motion, please indicate when counsel is available to meet and confer pursuant to L.R. 7.

Regards,

Alex Moss | Durie Tangri LLP | amoss@durietangri.com | 415-362-6666

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